THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.21029 of 2005

Date:26.09.2005

Manik Chand Jain

--------PETITIONER

Sate of Andhra Pradesh, Rep. by its Principal Secretary to Government, Higher Education (IE.II) Department, Secretariat Buildings, Saifabad, Hyderabad and others

---------RESPONDENTS

ORDER:

The petitioner challenges the order, dated 20.09.2005, whereunder the 2nd respondent had approved the appointment of the 4th respondent as a Correspondent of Sree Mahaveer Memorial Junior College, Guntur, established by the 3rd respondent-Trust. The petitioner has been elected as a Correspondent of the Institution up to 10.10.2005. In the meanwhile, the disputes arose between two groups of the 3rd respondent-Trust. Ultimately, the petitioner was removed from the correspndentship. He filed O.S.No.56 of 2005 in the Court of the learned III Additional Junior Civil Judge, Guntur. Initially an order of *status quo* was granted and thereafter, it was vacated.

The 2nd respondent issued proceedings, dated 18.07.2005, requiring the Trust to remove the petitioner from the correspondentship. The petitioner filed an appeal before the 1st respondent and obtained interim orders. It was preceded by some writ petitions and it is not necessary to refer to the same. Through proceedings, dated 20.09.2005, the 2nd respondent recorded the correspondentship of the 4th respondent, in the place of the petitioner. The same is challenged in this writ petition.

Heard Sri D.V.Seetharam Murthy, the learned counsel for the petitioner, the learned Government Pleader for Higher Education and Sri D.V.Reddy, the learned counsel for respondents 3 and 4, who filed the Caveat.

Two sets of proceedings came to be initiated against the petitioner as regards his correspondentship. The Trust removed him from correspondentship through a resolution, dated 30.11.2003, and the same was challenged in O.S.No.56 of 2005. The 2nd respondent, in turn, required the Management to replace the petitioner, through his proceedings, dated 18.07.2005. Against this, the petitioner availed the remedy of appeal before the 1st respondent. The interim orders that were passed in favour of the petitioner were vacated in both the sets of proceedings. Therefore, there did not exist any basis for the petitioner to continue as the Correspondent. It was in this context that the impugned order came to be passed. An institution cannot be permitted to be without a Correspondent.

The question as to whether there was any justification for the 1st respondent in vacating the interim orders granted in favour of the petitioner cannot be considered at this stage. If the petitioner feels aggrieved by such orders, he can certainly move the 1st respondent itself, or institute such other proceedings as are open to him in law. At any rate, the left over term to the petitioner is hardly few days.

The learned counsel for the petitioner relied upon the judgments of this Court in ***P.Jagannadha Rao v. Commissioner and Director of School Education and K.Rama Sastry v. Government of Andhra Pradesh*** in support of his contention that the petitioner ought to have been put on notice, before he was replaced by the 4th respondent. Had it been a case where the impugned order came to be passed in the first instance, this Court would certainly have interfered with it, on the ground that the petitioner was given an opportunity. The narration of the facts in the proceedings paragraphs discloses that the

dispute in relation to the continuance of the petitioner as a Correspondent has been going on for the past some time and that it became the subject matter of several proceedings before Courts and authoirites. The appointment of the 4th respondent is more a step to fill up the vaccum, than to replace the petitioner.

Another contention advanced on behalf of the petitioner is that the impugned order amounts to review of the order, dated 18.07.2005 passed by the 2nd respondent. If the same set of circumstances that existed as on 18.07.2005 continued, the impugned order would have amounted to review of the earlier order. There is an important factor that occurred in between viz., that the Government vacated the interim orders granted in favour of the petitioner. Therefore, this Court does not find any basis to interfere with the impugned order.

Hence, the writ petition is dismissed, leaving it open to the petitioner to pursue his remedies in the pending proceedings. There shall be no order as to costs.

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26.09.2005

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